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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/693,828

10/24/2003

Kurt Schunke

SCHUNKE-4

1488

20151

7590

12/20/2004

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EXAMINER

MCANULTY, TIMOTHY P

ART UNIT

PAPER NUMBER

3682

DATE MAILED: 12/20/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/693,828

Applicant(s)

SCHUNKE ET AL.

Examiner

Timothy P McAnulty

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 24 October 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 10/23/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Drawings

1. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore:

the housing as claimed in claim 2, and

the control element as claimed in claim 6,

must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4,8, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Harrod et al.

Harrod et al. discloses in figure 2, an adjustment device comprising a drive motor 62; a drive train having a plurality of gear wheels 42,30,26; a carrier 12; a housing 68; an output member 46 receiving a hollow shaft for connecting to an inherent control member (see also lines 61-63 of column 3); wherein said drive motor is flange mounted on said carrier; and wherein said carrier is formed with a projecting centering pin.

4. Claims 1,2,7,8 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Stratienko.

Stratienko discloses in figure 8, an adjustment drive comprising, a drive train having a plurality of gear wheels; an inherent drive motor attached to an input shaft 20 (see also figure 2); a carrier (not referenced) supporting said plurality of gear wheels; and a two portion housing 16b, 16c; wherein said plurality of gear wheels are positioned on both opposite sides of said carrier.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

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having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harrod et al.

Harrod et al. discloses the basic apparatus as set forth above but does not disclose said housing made of two portions or said gear wheels made of metal or steel or non-ferrous heavy metal.

Regarding claim 10, however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form said housing from two portions, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. *Nerwin v. Erlichman*, 168 USPQ 177, 179.

Regarding claims 12 and 13, however, it would have been obvious to one of ordinary skill in the art at the time the invention was made to form said gear wheels from metal, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of engineering design choice. *In re Leshin*, 125 USPQ 416.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrod et al. in view of JP6-200788.

Harrod et al. discloses the basic apparatus as set forth above but does not disclose said output member being a tooth segment. However, JP6-200788 teaches in figure 2, an adjustment mechanism comprising, *inter alia*, a gear set driven by a motor and an output element 5 being a tooth segment. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Harrod et al. in view of the teachings of

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JP6-200788 to provide said output member as a tooth segment to reduce the number of teeth of said output member to only those teeth that may be needed for a selected degree of rotation of said output member, i.e., it is old and well known in the art to provide a tooth segment instead of a complete gear wheel where the particular requirements of a given application do not require full rotation of an output member (such a given application as taught in JP6-200788).

8. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrod et al. in view of Ponczek.

Harrod et al. discloses the basic apparatus as set forth above but does not disclose said hollow shaft having internal threads. However, Ponczek teaches in figure 2, an adjustment mechanism comprising, *inter alia*, a gear set and an internally threaded connector 24. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Harrod et al. in view of the teachings of Ponczek to provide internal threads on said hollow shaft to provide attachment means for an externally threaded output device; it is old and well known in the art to provide internal threads on an output member to provide threaded attachment means.

9. Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harrod et al. in view of Kershaw et al.

Harrod et al. discloses the basic apparatus as set forth above but does not disclose said motor being a brushless external rotor motor. However, Kershaw et al. discloses a brushless motor having an external rotor. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of Harrod et al. in view of the teachings of Kershaw et al. to provide a brushless external rotor motor so as to provide a more

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compact motor design, especially having a reduce axial length and additionally to reduce noise as compared to a conventional brush motor.

Conclusion

10. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents are cited to generally show the state of art regarding adjustment mechanisms:

US Patent No. 5,737,968 to Hardey et al.


US Patent No. 4,826,458 to Irwin et al.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Timothy P McAnulty whose telephone number is 703.308.8684. The examiner can normally be reached on Monday-Friday (7:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Bucci can be reached on 703.308.3668. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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